
By: **Chairman, Environmental Matters Committee (By Request -
Departmental - Environment)**

Introduced and read first time: February 25, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Air Quality - Emissions Fees**

3 FOR the purpose of requiring certain major stationary sources of air pollution in the
4 State to pay certain annual fees to the Department of the Environment for
5 certain emissions under certain circumstances; establishing the manner of
6 calculating the fees; authorizing an exemption from the fees under certain
7 circumstances; requiring the Department to issue certain fee notices; requiring
8 payment of the fees at a certain time; authorizing the Department to reimburse
9 certain fees under certain circumstances; establishing the Ozone Standard
10 Attainment Fund; requiring certain fees to be deposited into the Fund;
11 authorizing the use of the Fund for certain purposes; defining certain terms;
12 providing for the termination of this Act under certain circumstances; and
13 generally relating to the establishment and use of fees for air quality control.

14 BY adding to
15 Article - Environment
16 Section 2-403.1 and 2-403.2
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 2003 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Environment**

22 2-403.1.

23 (A) IN THIS SECTION, "ATTAINMENT YEAR" MEANS:

24 (1) THE YEAR THAT THE WASHINGTON, D.C. NONATTAINMENT AREA IS
25 REQUIRED TO ATTAIN THE FEDERAL ONE-HOUR AMBIENT AIR QUALITY STANDARD
26 FOR OZONE; OR

1 (2) IN THE EVENT OF AN EXTENSION OF THE ATTAINMENT DEADLINE
2 GRANTED IN ACCORDANCE WITH 42 U.S.C. § 7511(A)(5) OR OTHER APPLICABLE
3 PROVISION OF THE CLEAN AIR ACT OR FEDERAL LAW, ANY EXTENSION YEAR.

4 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, ON A
5 FINDING BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY THAT THE
6 WASHINGTON, D.C. NONATTAINMENT AREA HAS FAILED TO ATTAIN THE FEDERAL
7 ONE-HOUR AMBIENT AIR QUALITY STANDARD FOR OZONE BY THE APPLICABLE
8 ATTAINMENT DATE, EACH MAJOR STATIONARY SOURCE OF VOLATILE ORGANIC
9 COMPOUNDS OR NITROGEN OXIDES LOCATED IN THIS STATE WITHIN THE
10 WASHINGTON, D.C. NONATTAINMENT AREA SHALL PAY AN ANNUAL FEE TO THE
11 DEPARTMENT FOR NITROGEN OXIDE EMISSIONS IF:

12 (I) THE STATIONARY SOURCE QUALIFIES AS MAJOR WITH
13 RESPECT TO NITROGEN OXIDE EMISSIONS; OR

14 (II) FOR VOLATILE ORGANIC COMPOUND EMISSIONS IF THE
15 STATIONARY SOURCE QUALIFIES AS MAJOR WITH RESPECT TO VOLATILE ORGANIC
16 COMPOUND EMISSIONS.

17 (2) THE FEE SHALL BE:

18 (I) DETERMINED IN ACCORDANCE WITH SUBSECTION (C) OF THIS
19 SECTION; AND

20 (II) DEPOSITED INTO THE OZONE STANDARD ATTAINMENT FUND
21 ESTABLISHED IN ACCORDANCE WITH § 2-403.2 OF THIS SUBTITLE.

22 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
23 PERSON MAY NOT BE REQUIRED TO PAY ANY FEE UNDER THIS SECTION:

24 (I) WITH RESPECT TO ANY EMISSIONS FOR ANY YEAR THAT IS
25 TREATED AS AN EXTENSION YEAR UNDER 42 U.S.C. § 7511(A)(5) OF THE FEDERAL
26 CLEAN AIR ACT; OR

27 (II) IF THAT FEE WOULD NOT OTHERWISE BE IMPOSED UNDER 42
28 U.S.C. § 7511D OF THE FEDERAL CLEAN AIR ACT.

29 (C) (1) THE FEE SHALL:

30 (I) EQUAL \$5,000 FOR EACH TON OF VOLATILE ORGANIC
31 COMPOUNDS OR NITROGEN OXIDES EMITTED EACH YEAR AFTER THE ATTAINMENT
32 YEAR, IN EXCESS OF 80% OF THE BASELINE AMOUNT, CALCULATED IN ACCORDANCE
33 WITH 42 U.S.C. § 7511D OF THE FEDERAL CLEAN AIR ACT, TAKING INTO
34 CONSIDERATION ANY GUIDANCE ISSUED BY THE UNITED STATES ENVIRONMENTAL
35 PROTECTION AGENCY; AND

36 (II) BE ADJUSTED ANNUALLY FOR INFLATION IN ACCORDANCE
37 WITH 42 U.S.C. § 7661A(B)(3)(B)(V) OF THE FEDERAL CLEAN AIR ACT.

1 (2) A FEE ASSESSED IN ACCORDANCE WITH THIS SUBSECTION SHALL BE
2 PAID FOR EACH CALENDAR YEAR STARTING THE YEAR AFTER THE ATTAINMENT
3 YEAR, AND EACH CALENDAR YEAR THEREAFTER, UNTIL:

4 (I) THE AREA IS DESIGNATED AS IN ATTAINMENT OF THE
5 ONE-HOUR OZONE STANDARD; OR

6 (II) THE FEES ARE NOT REQUIRED BY THE FEDERAL CLEAN AIR ACT
7 OR REGULATIONS PROMULGATED THEREUNDER.

8 (D) (1) THE DEPARTMENT SHALL ISSUE ANNUAL FEE NOTICES.

9 (2) PAYMENT SHALL BE DUE NO LATER THAN 30 DAYS AFTER RECEIPT
10 OF NOTICE.

11 2-403.2.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (2) "AIR POLLUTION CONTROL DEVICE OR OTHER POLLUTION
15 PREVENTION OR REDUCTION MEASURE" MEANS:

16 (I) A PROJECT THAT RESULTED IN THE REDUCTION OR
17 ELIMINATION OF VOLATILE ORGANIC COMPOUNDS OR NITROGEN OXIDES IN A
18 MANNER THAT CONTRIBUTED TO ATTAINMENT OF THE FEDERAL ONE-HOUR
19 AMBIENT AIR QUALITY STANDARD FOR OZONE; OR

20 (II) ANY OTHER AIR POLLUTION CONTROL DEVICE OR OTHER
21 POLLUTION PREVENTION MEASURE IMPLEMENTED AFTER JANUARY 1, 2004.

22 (3) "FUND" MEANS THE OZONE STANDARD ATTAINMENT FUND.

23 (B) THERE IS AN OZONE STANDARD ATTAINMENT FUND.

24 (C) ALL FEES COLLECTED BY THE DEPARTMENT UNDER THE PROVISIONS OF §
25 2-403.1 SHALL BE DEPOSITED INTO THE FUND.

26 (D) (1) ALL FEES PAID INTO THE FUND SHALL BE DEPOSITED WITH THE
27 STATE TREASURER TO THE CREDIT OF THE FUND AND SHALL BE INVESTED AND
28 REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

29 (2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

30 (3) THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

31 (E) THE FUND SHALL BE A CONTINUING NONLAPSING SPECIAL FUND THAT IS
32 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 (F) THE DEPARTMENT SHALL HOLD THE FEES COLLECTED FROM EACH
2 PERSON IN SEPARATE ACCOUNTS UNDER THE FUND ONLY FOR DISBURSEMENT IN
3 ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.

4 (G) (1) ANY PERSON THAT HAS PAID FEES INTO THE FUND IN ACCORDANCE
5 WITH § 2-403.1 OF THIS SUBTITLE SHALL BE REIMBURSED FROM THAT PERSON'S
6 ACCOUNT WITHIN THE FUND FOR COSTS INCURRED IN CONNECTION WITH THE
7 INSTALLATION OF AIR POLLUTION CONTROL DEVICES OR OTHER POLLUTION
8 PREVENTION OR REDUCTION MEASURES, APPROVED BY THE DEPARTMENT.

9 (2) IN THE EVENT THAT THE FEES REQUIRED BY § 2-403.1 OF THIS
10 SUBTITLE ARE NOT REQUIRED BY THE FEDERAL CLEAN AIR ACT OR REGULATIONS
11 ADOPTED UNDER THE CLEAN AIR ACT, ANY BALANCE REMAINING IN THE ACCOUNTS
12 AT THAT TIME SHALL BE RETURNED, WITH ACCRUED INTEREST, TO EACH PERSON
13 THAT HAS PAID INTO THE FUND, IN ACCORDANCE WITH THE PERSON'S
14 UNREIMBURSED CONTRIBUTION.

15 (H) ASSETS AND PROCEEDS OF THE FUND AND ITS SEPARATE ACCOUNTS MAY
16 ONLY BE USED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION AND MAY
17 NOT BE BUDGETED OR APPROPRIATED FOR ANY OTHER PURPOSE.

18 (I) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE
19 PROVISIONS OF THIS SECTION.

20 (2) ANY REGULATIONS SHALL INCLUDE CRITERIA FOR APPROVAL OF
21 POLLUTION CONTROL PROJECTS ELIGIBLE FOR REIMBURSEMENT AND PROCEDURES
22 FOR APPLICATION AND REIMBURSEMENT.

23 SECTION 2. AND BE IT FURTHER ENACTED, That in the event the fees
24 required by this Act are no longer required by the federal Clean Air Act or regulations
25 adopted under the Clean Air Act, following return of any balance in the accounts to
26 each person, the provisions of this Act and any rule or regulation adopted under this
27 Act, with no further action required by the General Assembly, shall be abrogated and
28 of no further force and effect.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
30 effect October 1, 2004.